

COMPOSITE STATE BOARD OF MEDICAL EXAMINERS



EXECUTIVE DIRECTOR
LaSharn Hughes

MEDICAL DIRECTOR
Jim H. McNatt, MD

2 Peachtree Street, N.W., 36th Floor • Atlanta, Georgia 30303 • Tel: 404.666.3913 • <http://www.medicalboard.state.ga.us>
E-Mail: Medbd@dch.state.ga.us

COMPOSITE STATE BOARD OF MEDICAL EXAMINERS

NOTICE OF INTENT TO ADOPT RULES

TO ALL INTERESTED PARTIES:

Notice is hereby given by the Composite State Board of Medical Examiners that it intends to adopt a new Chapter 360-31, entitled "Orthotists and Prosthetists." An exact copy of the proposed new chapter is attached to this Notice.

This notice, together with an exact copy of the proposed rule and a synopsis of the proposed rule are being mailed to all persons who have requested, in writing, that they be placed on a mailing list. A copy of this notice, an exact copy of the proposed rules and a synopsis of the proposed rules may be reviewed during normal business hours of 8:00 a.m. to 5:00 p.m., Monday through Friday, except official State holidays, at the office of the Composite State Board of Medical Examiners, 2 Peachtree Street, N.W., 36th Floor, Atlanta, Georgia 30303.

Any interested person who will be affected by these rules may present his or her comments to the Board no later than July 5, 2006 or make comments at the public hearing. Comments may be directed to Diane Atkinson, Composite State Board of Medical Examiners, 2 Peachtree Street, NW, Atlanta, Georgia 30303-3465 or may be received by the Board by e-mail at matkinson@dch.state.ga.gov.

A public hearing is scheduled to begin at 9:30 a.m. on July 14, 2006 at the 36th Floor Board Room, Floor, 2 Peachtree Street, N.W., Atlanta, Georgia 30303, to provide the public an opportunity to comment upon and provide input into the proposed rules.

The Board voted to adopt this Notice of Intent on June 9, 2006. The attached proposed rules will be considered for adoption by the Board at its meeting on July 14, 2006 that is scheduled to begin at 9:30 a.m. at the 36th Floor Board Room, 2 Peachtree Street, NW, Atlanta, GA 30303.

The authority for promulgation of these rules is O. C. G. A. 43-34-196 and the specific statutes cited in the proposed rules. This Notice is adopted and posted in compliance with O.C. G.A. § 50-13-4 of the Georgia Administrative Procedures Act.

Date: _____

Signed: _____

LaSharn Hughes

Executive Director

Composite State Board of Medical Examiners

ECONOMIC IMPACT AND SYNOPSIS FOR PROPOSED AMENDMENTS TO
CHAPTER 360-31
ORTHOTISTS AND PROSTHETISTS

ECONOMIC IMPACT:

The attached rules are promulgated under the authority of the Orthotics and Prosthetics Practice Act, which becomes effective July 1, 2006. The statute requires licensure of the orthotic and prosthetic professions. The formulation and adoption of this rule does not impose excessive regulatory cost on any licensee and any cost to comply with the proposed rule cannot be reduced by a less expensive alternative that fully accomplishes the objectives of Article 8 of Chapter 34 of Title 43 of the Official Code of Georgia Annotated. Additionally, it is not legal or feasible to meet the objectives of the Orthotics and Prosthetics Practice Act to adopt or implement differing actions for businesses as listed at O.C.G.A. § 50-13-4(a)(3)(A), (B), (C) and (D).

RULE SYNOPSIS;

Chapter 360-31

Purpose: The proposed rules in Chapter 360-31 contain provisions for implementing the Orthotics and Prosthetics Practice Act.

Main Features: The proposed new chapter contains rules for initial licensure, provisional licenses and license renewals. The chapter also provides procedures for a change of name or address and requesting duplicate licenses in proposed rules 360-31-.06 and 360-31-.07. Proposed rule 360-31-.09 provides for continuing education requirements of 30 hours biennially, documentation requirements, procedures for non-compliance and procedures for seeking waivers or variances of the rule. Proposed rule 360-31-.10 provides the procedures for the inactive status of a license and 360-31-.11 provides for reinstatement of a license. Proposed rule 360-31-.12 prohibits the unlicensed practice of orthotics and/or prosthetics. Proposed rule 360-31-.13 indicates that no person shall work as an assistant or technician unless the work is performed under the supervision of a person licensed pursuant to the Act and further indicates the supervision requirements for assistants and technicians. Rule 360-31-.14 provides that a person licensed pursuant to the Act may only provide care or services pursuant to an order of a licensed physician or podiatrist. Proposed rule 360-31-.15 provides for the composition and responsibilities of the Advisory Committee.

RULES
OF
COMPOSITE STATE BOARD OF MEDICAL EXAMINERS

CHAPTER 360-31
ORTHOTISTS AND PROSTHETISTS

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360-31-.01 Applications.

(1) The application form shall be completed according to the instructions provided in the application.

(2) Reference forms shall be valid for up to six (6) months from the date of signature. If the application is not approved during the six-month period, the Board may require a new and more current reference.

(3) Applications must be complete, including all required documentation, signatures and seals. Application files are not considered completed until all required information, documentation and fees have been received by the Board. No application will be considered by the Board until the application is complete.

(4) Applicants shall inform the Board in writing within 10 days of a change of address while an application is pending.

(5) Application fees are nonrefundable.

(6) Deposit of an application fee by the Board does not indicate acceptance of the application or that any other licensing requirements have been fulfilled.

(7) Incomplete applications that have been on file with the Board for more than one year shall be deemed invalid. No further action will take place on applications that have been incomplete for more than a year until a new application is received in accordance with the provisions of this chapter with the appropriate application fee.

Authority: OCGA Secs. 43-1-7, 43-34-194, 43-34-196.

360-31-.02 Provisional Licensure.

(1) To qualify for a provisional license, pursuant to O.C.G.A. § 43-34-198 (c), without satisfying the examination and education requirements of O.C.G.A. § 43-34-195, a person shall meet the requirements listed below.

(a) Submit a completed application required by the Board and the requisite fee no later than August 30, 2006;

(c) Complete an applicant's work history form that provides information regarding the applicant's work history and scope of practice to establish that the applicant has practiced for a minimum of the past seven (7) years in this state in a prosthetic orthotic facility as an orthotist or prosthetist.

(2) The Board shall investigate the work history, qualification and fitness of applicant and said investigation shall be completed within six (6) months of receipt of a fully completed application.

(3) If, after receipt of the fully completed application and completion of the investigation, the Board determines that the applicant satisfied the work history requirements and met all other qualifications for licensure, except the examination and education requirements, the Board shall issue a license to practice orthotics or prosthetics.

(4) A provisional license issued to a person, pursuant to and in accordance with O.C.G.A. § 43-34-198(c), shall be valid through June 30, 2007 and shall not be renewed without compliance with requirements of O.C.G.A. § 43-34-195.

(5) Nothing in this rule shall be construed to prevent the Board from denying or conditionally granting an application for licensure pursuant to the provisions of O.C.G.A. § 43-34-203 and/or O.C.G.A. § 43-1-19.

Authority. O.C.G.A. Secs. 43-1-4, 43-1-7, 43-34-196, 43-34-198(c), 43-1-19, 43-34-203

360-31-.03 Licensure for Applicants Currently Practicing Orthotics or Prosthetics Who Are Certified As an Orthotists or Prosthetist.

(1) To qualify for a license, a person who is certified as an orthotist, prosthetist or prosthetist orthotist by the American Board for Certification in Orthotics and Prosthetics, Incorporated (ABC) or the Board of Orthotist/Prosthetist Certification (BOC), or holding similar certifications from other accrediting bodies with equivalent educational requirements and currently practicing orthotics and prosthetics in this State shall meet the requirements listed below to qualify for license.

(a) Submit a completed application and the requisite fee before July 1, 2007.

(b) Provide evidence satisfactory to the Board that the person is certified as an orthotist, prosthetist or prosthetist orthotist by ABC, BOC or holds similar certifications from other accrediting bodies with equivalent educational requirements.

(2) On or after July 1, 2007, any applicant for licensure as an orthotist, prosthetist or prosthetist orthotist shall meet the requirements of O.C.G.A. § 43-34-195.

(3) Nothing in this rule shall be construed to prevent the Board from denying or conditionally granting an application for licensure pursuant to the provisions of O.C.G.A. § 43-34-203 and/or O.C.G.A. § 43-1-19.

Authority. O.C.G.A. Secs. 43-1-7, 43-34-196, 43-34-198(a), 43-1-19, 43-34-203.

360-31-.04 Licensure Pursuant to Qualifications Established by O.C.G.A. § 43-34-195.

(1) Except as provided in Rule 360-31-.03, to qualify for a license to practice orthotics and/or prosthetics, a person shall meet the requirements listed below:

(a) Possess a baccalaureate degree from a college or university and completion of a program in prosthetics or orthotics that meets or exceeds the requirements, including clinical practice, of the Commission on Accreditation of Allied Health Programs (CAAHEP) and complete a clinical residency in orthotics and/or prosthetics that meets or exceeds the standards and requirements for residencies of the National Commission on Orthotic and Prosthetic Education; or

(b) Possess an associate's degree from a college or university with successfully completed courses in human anatomy, physiology, physics, chemistry and biology and have completed at least five (5) years of work experience in the discipline for which the license is sought, under the supervision of a practitioner licensed or certified in such discipline by an agency accredited by the National Commission for Certifying agencies;

(c) Successfully complete the examination(s) given by ABC or its successor for certification in the discipline for which the license is sought; and

(d) Submit a fully completed application and the requisite fee.

(2) Nothing in this rule shall be construed to prevent the Board from denying or conditionally granting an application for licensure.

Authority. O.C.G.A. Secs. 43-1-7, 43-34-195, 43-34-196

360-31-05 Reciprocal Licensure Requirements. The Board may, at its discretion, waive the examination requirements for an applicant who is an orthotist and prosthetist and is:

(a) Is licensed under the laws of another state, territory or country, if the requirements for licensure at the date of his or her licensure were equal to or more stringent than the requirements in force in the State of Georgia; or

(b) Is certified as an orthotist or prosthetist by a national certifying organization that is accredited by the National Commission for Certifying Agencies, and has educational and testing standards equal to or more stringent than the licensing requirements of the State of Georgia.

Authority. O.C.G.A. Secs. 43-34-196, 43-34-202

360-31-.06 Change of Name or Address.

(1) A licensee shall notify the Board in writing within 30 days after the licensee's name is legally changed. At the time of notification, the licensee shall submit a certified copy of the official document evidencing the name change. If the name change occurred during naturalization, the application must also include the naturalization number, the name and address of the court, the date of naturalization, and the name change. After receipt of the required notification and documentation, the Board will issue a duplicate license in the new name.

(2) A licensee shall notify the Board in writing within 30 days after a change in the licensee's address of record. Failure to so notify the Board of an address change is a violation of this rule and grounds for disciplinary action.

(3) A licensee who utilizes a post office box as the address of record shall also provide a street address where the Board may contact the licensee.

Authority. OCGA Secs. 43-34-194, 43-34-196.

360-31-.07 Duplicate Licenses

(1) Duplicate licenses may be issued upon approval by the Board if the original license is lost, stolen, or destroyed, or if the licensee has had a legal change of name.

(2) To request a duplicate license, the licensee must submit a notarized application stating the reason the duplicate license is requested. If the application is based on a name change, the licensee must provide the documentation required by Rule 360-31-.06.

(3) All applications must include the duplicate license fee. The duplicate license fee shall be designated in the fee schedule.

Authority. OCGA Secs. 43-1-7, 43-34-196.

360-31-.08 Renewal.

(1) All active licenses must be renewed on a biennial basis. Orthotist and/or Prosthetist licenses will expire on the last day of the month in which the applicant's birthday falls.

(2) Approximately 60 days prior to the expiration date, the Board may as a courtesy, mail a notice for license renewal to the last address on file in the Board's records to every person holding a current license. Failure to receive such notification shall not relieve the licensee of the obligation to renew and pay the required fee prior to the expiration date of the license. Deposit of the renewal fee by the Board does not indicate acceptance of the renewal application or that any licensing requirements have been fulfilled.

(3) To be eligible for renewal, licensees must answer questions on their biennial renewal form which establish satisfaction of Board approved continuing education requirements or eligibility for waiver or variance pursuant to Rule 360-31-.06. Failure to meet the continuing education requirements is a basis for nonrenewal.

(4) Failure to renew a license by the expiration date shall result in a penalty for late renewal as required by the Board. Licenses that have been expired for not more than ninety (90) days may be renewed by submitting a renewal application, establishing compliance with the continuing professional education requirements prescribed by the Board, and paying the renewal fee and the penalty fee prescribed by the Board.

(5) Licenses that are not renewed within 90 days of expiration shall be revoked for failure to renew and may be reinstated only as provided in rule 360-31-.11.

(6) Notwithstanding the provisions of paragraphs (4) and (5) of this rule, a person whose license expired while he or she was in active duty with the regular or reserve component of the United States armed forces, the United States Coast Guard, the Georgia National Guard, or the Georgia Air National Guard on ordered federal duty for a period of ninety (90) days or longer, whose license expired while serving on active duty outside the state shall be permitted to practice in accordance with the expired license and shall not be charged with a violation relating to such practice on an expired license for a period of six (6) months from the date of his or her discharge from active duty or reassignment to a location within the state.

(7) Notwithstanding the provisions of paragraph (5) of this rule, a person whose license expired while he or she was:

(a) in federal service on active duty with the armed forces of the United States or with the state militia and called into service or training;

(b) in training or education under the supervision of the United States preliminary to induction into military service.

May have his or her license renewed or restored without paying a lapsed renewal fee if, within two (2) years after termination from the service or training, except under conditions other than honorable, he or she furnishes the Board with satisfactory evidence that he or she has been so engaged and that his or her service, training or education has been terminated.

(8) Except as provided in paragraph (6) of this rule, a person with an expired orthotist and/or prosthetist license shall not engage in the practice of orthotics and/or prosthetics and hold himself or herself out as being able to practice such professions until such time as the Board has approved his or her application for renewal or reinstatement.

(9) An applicant who was granted licensure pursuant to O.C.G.A. § 43-34-198(c) shall not be renewed unless the applicant has complied with the requirements of O.C.G.A. § 43-34-195.

Authority. OCGA Secs. 43-1-4, 43-1-19(1), 43-1-25, 43-1-31, 43-34-24.1, 43-34-195, 43-34-196, 43-34-198, 43-34-200.

360-31-.09 Continuing Education Requirements.

(1) To be eligible to renew a license, each licensee must complete thirty (30) hours of Board approved continuing education during the two years preceding license renewal. Dual discipline licensees must obtain at least fifteen (15) hours in each discipline.

(2) Each licensee shall be required to answer questions on their biennial renewal application form that establish compliance with Board approved continuing education requirements. Licensees will not be required to send documentation of compliance with continuing education requirements for renewal, unless requested by the Board pursuant to Rule 360-31-.09(4). False statements regarding satisfaction of continuing education on the renewal form or any other document connected with the practice of orthotics and/or prosthetics may subject the licensee to disciplinary action by the Board.

(3) Each licensee who must meet the requirements of this chapter must maintain a record of attendance and supporting documents for Board approved continuing education for a period of five (5) years from the date of attendance. At a minimum, the following information must be kept:

- (a) name of provider;
- (b) name of program;
- (c) hours of continuing education units completed; and
- (d) date of completion.

(4) The Board will audit a fixed percentage of randomly selected renewal applications to monitor compliance with the continuing education requirements. Any licensee so audited shall be required to furnish documentation of compliance including name of provider, name of program, hours/continuing education units completed and date of completion. Any licensee so audited that has been found to be out of compliance with the Board's continuing education requirements may be subject to disciplinary action.

(5) If the licensee has not complied with the continuing education requirement by the expiration of the license, his/her license shall not be renewed and the licensee shall not engage in the practice of orthotics and/or prosthetics. A licensee may late renew during the three months following the expiration date of his or her license by presenting satisfactory evidence to the Board of completion of the required continuing education units of Board approved continuing education and the late renewal fee. Licenses not renewed within 3 months following the expiration date of the license shall be revoked for failure to renew. In order to obtain a valid license after revocation for failure to renew, an applicant must apply for reinstatement in accordance with Rule 360-31-.11.

(6) Continuing education hours that are used to satisfy a deficiency may not be used for purposes of renewal of the applicant's license for the next biennium.

(7) Any applicant seeking renewal of a license without having fully complied with the Board's continuing education requirements who wishes to seek a waiver or variance of this rule shall file with the Board

(a) a renewal application and fee and

(b) a statement that complies with the provisions of O.C.G.A. § 50-13-9.1 setting forth the specific facts of substantial hardship which would justify a variance or waiver, including the alternative standards which the person seeking a waiver or variance agrees to meet and a showing that such alternative standards will afford adequate protection for the public health, safety and welfare; and the reason why the variance would serve the purpose of the underlying statute.

Authority. OCGA Secs. 43-1-4, 43-1-19(l), 43-1-25, 43-34-24.1, 43-34-196, 50-13-9.1.

360-31-.10 Inactive Status.

(1) A licensee who does not intend to practice orthotics and/or prosthetics may apply to the Board for inactive status by submitting an application and the fee. An individual with an inactive license shall not practice prosthetics or orthotics in this State.

(2) In order to reinstate a license to practice orthotics and/or prosthetics, an applicant must complete an application and pay the current renewal fee and file proof acceptable to the Board of his or her fitness to have his or her license restored as provided in Rule 360-31-11.

Authority. OCGA Secs. 43-1-7, 43-34-196, 43-34-201.

360-31-.11 Reinstatement.

(1) A minimum of two (2) years shall pass from the date of any revocation of a license before the Board will consider an application for reinstatement. This requirement shall only apply to those instances in which the license in question was revoked for reasons other than failure to renew. For purposes of this rule, a voluntary surrender shall be considered a revocation for reasons other than failure to renew.

(2) If the Board denies any application for reinstatement, the Board may require that a minimum of two (2) years pass from the date of the denial before the Board will consider subsequent applications for reinstatement.

(3) In order to reinstate a license to practice orthotics and/or prosthetics, an applicant must complete an application and pay a reinstatement fee as shall be designated in the fee schedule. Furthermore, the applicant must file proof acceptable to the Board of his or her fitness to have his or her license restored, including but not limited to:

(a) Sworn evidence certifying to active practice in another jurisdiction satisfactory to the Board;

(b) Verification of completion of continuing education requirements as provided in Rule 360-31-.09 for each biennial period that the applicant was not licensed;

(c) If the applicant for reinstatement has not maintained an active practice in another jurisdiction satisfactory to the Board, such applicant shall be required to successfully complete an examination required by the Board and may be required to complete a period of evaluated clinical experience.

(4) Notwithstanding the provisions of this rule, a person whose license expired while he or she was on active duty within the armed forces of the United States or with the state militia and called into service or training or was in training or education under the supervision of the United States preliminary to induction into military service may have his or her license restored without paying a reinstatement fee if:

(a) application is made within two years after the termination from the service, training or education, except under conditions other than honorable;

(b) the applicant furnishes the Board with satisfactory evidence that the applicant has been so engaged and that his or her service, training, or education has been terminated.

(5) Reinstatement of the license is within the discretion of the Board.

(6) The Board may deny reinstatement for failure to demonstrate current knowledge, skill and proficiency in the practice of orthotics and/or prosthetics or for being mentally or physically unable to practice orthotics and/or prosthetics with reasonable skill and safety or for any ground set forth in O.C.G.A. §§ 43-1-19 or 43-34-203.

(7) The denial of reinstatement is not a contested case, but the applicant shall be entitled to an appearance before the Board.

Authority. OCGA Secs. 43-1-7, 43-1-19, 43-1-25, 43-34-24.1, 43-34-196, 43-34-200, 43-34-201, 43-34-203.

360-31-.12 Unlicensed Practice.

(1) On and after July 1, 2007, no person shall practice orthotics or prosthetics in this state and hold himself or herself out as being able to practice such or engage or offer to engage in such professions unless he or she is licensed pursuant to the Orthotics and Prosthetics Practice Act or is exempt from such licensing pursuant to O.C.G.A. § 43-34-193.

(2) The Board may refuse to grant the license of any applicant who has engaged in the unlicensed practice of orthotics or prosthetics or administer other discipline pursuant to

O.C.G.A. §§ 43-1-19 or 43-34-203 upon the issuance of a license to an applicant who has engaged in the unlicensed practice of orthotics or prosthetics.

Authority. OCGA Secs. 43-1-19, 43-1-25, 43-34-193, 43-34-196, 43-34-198, 43-34-203.

360-31-.13 Assistants and Technicians.

(1) No person shall work as an assistant to an orthotist, prosthetist or prosthetist orthotist and provide patient care services or fabrication of an orthoses or prostheses, unless he or she is doing the work under the supervision of a licensed orthotist, prosthetist or prosthetist orthotist. Supervision means the supervising licensed orthotist, prosthetist or prosthetist orthotist is physically present on the premises and available to lend assistance if needed.

(2) No person shall work as a technician unless the work is performed under the direction of a person licensed under this article. Said direction shall not require direct supervision.

Authority. OCGA Secs, 43-34-196, 43-34-197

360-31-.14 Prerequisite to Providing Care or Services. A licensed orthotist or a licensed prosthetist may provide care or services only if the care or services are provided pursuant to an order from a licensed physician or podiatrist.

Authority. OCGA Sec. 43-34-196, 43-34-199.

360-31-.15 Composition and Responsibilities of the Orthotist and Prosthetist Advisory Committee.

(1) The intention and policy of the Board is to reflect the cultural diversity of the citizens of Georgia in the composition of the Orthotist and Prosthetist Advisory Committee ("Advisory Committee"). The Advisory Committee shall be comprised as follows:

(a) At least four (4) appointees, who are licensed orthotists and/or prosthetists and representative of such professions, and such other individuals as the Board, in its discretion, may determine.

(b) At the time of appointment by the Board, such individuals shall be licensed pursuant the Orthotics and Prosthetics Practice Act, except that the appointees to the original Advisory Committee shall obtain a license to practice no later than July 1, 2007;

(c) All appointees to the Advisory Committee shall have on file with the Executive Director of the Board, or his/her designee, a resume and three (3) letters of

recommendation, one of which may be from a physician familiar with the appointee's practice of orthotics or prosthetics.

(d) In order to preserve continuity on the Advisory Committee, two appointees shall serve a two-year term and two appointees shall serve a one-year term which will be considered a partial term. At the time of the appointment, each appointee will be notified in writing by the Executive Director of the Board as to the beginning and ending dates of his or her respective appointment terms. Each may reapply to the full Board to serve an additional term but may not serve more than two consecutive two-year terms.

(e) In the event an Advisory Committee member is replaced during a term, the replacement member will serve the remaining time of that term as a partial term. An Advisory Committee member who serves a partial term will, after the completion of the partial term, be eligible to serve two consecutive two-year terms.

(f) Appointees shall serve without compensation from the State of Georgia for their time and expenses.

(g) As of July 1, 2007:

(i) all appointees to the Advisory Committee shall have a license to practice as an orthotist and/or prosthetist in order to be considered for appointment to the Advisory Committee; and

(ii) failure to obtain a license to practice as an orthotist and/or prosthetist by July 1, 2007 shall result in the automatic removal from the Advisory Committee.

(2) The Advisory Committee shall advise the Board on matters pertaining to the appointment of the Advisory Committee members and matters within the purview of the Orthotics and Prosthetics Practice Act. The Board, in consultation with the Advisory Committee, shall:

(a) Determine the qualifications and fitness of applicants for licensure and renewal of licensure;

(b) Adopt and revise rules consistent with the laws of the State of Georgia that are necessary to conduct its duties and administer the Act; and

(c) Examine for, approve, issue, deny revoke, suspend and renew the license of applicants and licensees and conduct hearings in connection with all duties to be performed pursuant to the Act;

(3) Advisory Committee members, who are not members of the Board, must be available to meet on as an needed basis and may not miss more than three (3) consecutive

meetings of the Advisory Committee, or four (4) meetings in a calendar year, without an excused absence from either the Executive Director of the Board or the Board President.

(a) The Advisory committee may recommend to the Board the removal of a member for violation of the attendance rule. Such a recommendation shall be by majority vote of the Advisory Committee.

(b) Upon receipt of such recommendation for removal, the Board may remove a member of the Advisory Committee by a majority vote.

(4) Advisory Committee vacancies may be filled by the Board upon recommendation from the Advisory Committee. All applicants must meet any deadline set by the Board and shall have on file with the Executive Director of the Board, or with his/her designee, a resume and three (3) letters of recommendation, one of which may be from a physician familiar with the applicant's practice of orthotics or prosthetics.

Authority. OCGA Secs. 43-34-196, 43-34-204.